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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation And Petition To  
Revoke Probation Against:

TATIA H. DEPASS [a.k.a. Gardner], R.C.P.  
613 W. Provential Drive #B  
Anaheim, CA 92805

Respiratory Care Practitioner License  
No. 19312

Respondent.

Case No. R-2085/D1 2006 560

OAH No.

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 24, 2009, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation and Petition to Revoke Probation No. R-2085/D1 2006 560 against TATIA H. DEPASS [a.k.a. Gardner], R.C.P. (Respondent) before the Respiratory Care Board.

2. On or about March 7, 1997, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 19312 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

1                   3.       On or about March 24, 2009, Andrea Pina, an employee of the Board,  
2 served by Certified Mail a copy of the Accusation and Petition to Revoke Probation  
3 No. R-2085/D1 2006 560, Statement to Respondent, Notice of Defense form (two copies),  
4 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to  
5 respondent's address of record with the Board, which was and is 613 W. Provential Drive #B,  
6 Anaheim, CA 92805. A copy of the Accusation and Petition to Revoke Probation, the related  
7 documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by  
8 reference.

9                   4.       Service of the Accusation and Petition to Revoke Probation was effective  
10 as a matter of law under the provisions of Government Code section 11505, subdivision (c).

11                  5.       On or about March 30, 2009, the Board received a signed Certified Mail  
12 Return Receipt from the United States Post Office indicating that Accusation and Petition to  
13 Revoke Probation No. R-2085/D1 2006 560, along with all other applicable documents, were  
14 received by respondent on March 27, 2009. A copy of the Certified Mail Return Receipt is  
15 attached as Exhibit B.

16                  6.       Government Code section 11506, subdivision (c), states:  
17                   "The respondent shall be entitled to a hearing on the merits if the respondent files  
18 a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
19 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
20 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

21                  7.       Respondent failed to file a Notice of Defense within 15 days after service  
22 upon her of the Accusation and Petition to Revoke Probation, and therefore waived her right to a  
23 hearing on the merits of Accusation and Petition to Revoke Probation No. R-2085/D1 2006 560.

24                  8.       California Government Code section 11520, subdivision (a), states:  
25                   "If the respondent either fails to file a notice of defense or to appear at the hearing,  
26 the agency may take action based upon the respondent's express admissions or upon other  
27 evidence and affidavits may be used as evidence without any notice to respondent."

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9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation and Petition to Revoke Probation No. R-2085/D1 2006 560 are true.

10. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation and Petition to Revoke Probation total \$1,501.00, based on the Certification of Costs contained in Exhibit C.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Tatia H. DePass [a.k.a. Gardner] R.C.P., has subjected her Respiratory Care Practitioner License No. 19312 to discipline.

2. A copy of the Accusation and Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke Respondent's Respiratory Care Practitioner Certificate based upon the following violations alleged in the Accusation and Petition to Revoke Probation:

a. On or about June 4, 2008, in case number 06NM11923, before the Superior Court of California, County of Orange, respondent was found to be in violation of her criminal probation for failing to attend the Domestic Violence Batterers' Treatment Program.

b. Respondent has failed to comply with various terms and conditions of her Respiratory Care Board's Probation including, obey all laws, submit quarterly reports, probation monitoring payments, and cost recovery.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

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Respondent is ordered to reimburse the Respiratory Care Board the amount of \$1501.00, for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner Certificate may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

This Decision shall become effective on July 4, 2009.

It is so ORDERED June 4, 2009

Attachments:

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